

IN THE HIGH COURT OF JUDICATURE AT BOMBAY
ORDINARY ORIGINAL CIVIL JURISDICTION

CHAMBER SUMMONS NO.508 OF 2002
IN
SUIT NO.3007 OF 1998

East West Freight Carriers
Pvt.Ltd. Plaintiffs

versus

Shrushti Overseas and others Defendants

and

Neetu Tolani Applicant

Plaintiff and advocate absent.

Ms.Parvati Kaushik i/by B.S.Chandnani for
applicant.

CORAM : S.C.DHARMADHIKARI, J.

DATE : 10th April 2006

PC :

1. In this Chamber Summons an order has been passed by this Court directing that insofar as flat which is being occupied by the applicant, the execution will not proceed. By a further order this Court has directed that evidence will have to be recorded in the Chamber Summons considering the pleas of applicant and decree

holder.

2. The learned advocate for the applicant points out that Suit No.2255 of 2000 is filed by the applicant against original defendant no.3/ judgement debtor no.3 Shri Rajesh Jaiswal in this Court. The said suit is pending.

3. None appears for the plaintiff-decree holder in this suit. To my mind, in the light of these orders it is clear that the execution cannot proceed as far as flat in occupation of applicant is concerned and that ad-interim order is continuing from 29th April 2002 till date. To my mind, the issues in the Chamber Summons as also the suit are more or less identical. The judgement debtor no.3 is party to the suit as well as to this Chamber Summons. The evidence would be common. Therefore, it would be open for the applicant to apply by appropriate proceedings to club the suit and chamber summons together. To enable the applicant to take out such proceedings, matter stands adjourned till 12th June 2006. It is clarified that execution proceedings insofar as balance properties are concerned can continue. The applicant's advocate undertakes to forward a copy of this order to the

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advocate for decree holder as also judgement debtor no.3. If in the mean time appropriate proceedings for consolidation/clubbing are taken out, it would be for the applicant to serve the necessary parties to such proceedings. Post Chamber Summons on 12th June 2006.

(S.C.DHARMADHIKARI, J.)